

**Posted – August 11, 2011**

**REGULAR MEETING AUGUST 15, 2011**

## **TOWN COUNCIL OF THE TOWN OF MIDDLETOWN, RHODE ISLAND**

**The following items of business, having been filed with the Town Clerk under the Rules of the Council, will come before the Council at a regular meeting to be held on Monday, August 15, 2011 at 7:00 P.M. (EXECUTIVE SESSION AT 6:30 P.M.) the Middletown Town Hall, 350 East Main Road, Middletown, Rhode Island.**

**Any person not a member of the Council, desiring to address the Council concerning a matter on the docket of the Council, not the subject of a Public Hearing, shall submit a written request to the Town Clerk stating the matter upon which he desires to speak. Persons are permitted to address the Council for a period not to exceed five (5) minutes.**

## **PLEDGE OF ALLEGIANCE TO THE FLAG**

## **RECONSIDERATION**

**The Middletown Town Council follows the codification of present-day general parliamentary law as articulated in Robert's Rules of Order Newly Revised 10th edition (2000), together with whatever rules of order the Council has adopted for its own governance. The motion to**

**reconsider is one of the motions that can bring a question again before an assembly, and is designed to bring back for further consideration a motion which has already been voted on:**

**If, in the same session that a motion has been voted on, but no later than the same day or the next day on which a business meeting is held, new information or a changed situation makes it appear that a different result might reflect the true will of the assembly, a member who voted with the prevailing side can, by moving to Reconsider [RONR (10th ed.), p. 304-321] the vote, propose that the question shall come before the assembly again as if it had not previously been considered. (From Robert's Rules of Order Newly Revised In Brief, Robert, Evans et al., De Capo Press, 2004)**

## **EXECUTIVE SESSION**

**Pursuant to provisions of RIGL, Sections 42-46-2., 42-46-4., and 42-46-5. (a)**

**(2) Collective Bargaining (Police and Public Works Unions) and (2) Potential Litigation (HK& S Bid Protest).**

## **PUBLIC FORUM SESSION**

**Pursuant to Rule 23 of the Rules of the Council, Citizens may address the town on one (1) subject only, said subject of substantive Town business, neither discussed during the regular meeting nor related to personnel or job performance. Citizens may speak for no longer than five (5) minutes and must submit a public participation form to the Council Clerk prior to the start of the meeting.**

## **ACTING AS A BOARD OF LICENSE COMMISSION**

### **1. (Advertised for Public Hearing)**

**Application of Applebee's Restaurant North, LLC dba Applebee's Neighborhood Grill and Bar, 349 West Main Road, holder of a Class BV Alcoholic Beverage License to TRANSFER said License to Apple New England, LLC dba Applebee's Neighborhood Grill and Bar, for use at the same premises.**

**2. Application of Jung, LTD dba Sea Shai, 741 Aquidneck Avenue, holder of a Class BV Alcoholic Beverage License to TRANSFER said License to S.H.I.J., INC. dba New Sea Shai, for use at the same premises. (Requires Advertising for Public Hearing)**

**3. Application of Frank Santos dba Sandy's Liquors, holder of a Class A Alcoholic Beverage License to TRANSFER said License to Michael Santos dba Sandy's Liquors, for use at the same premises. (Requires Advertising for Public Hearing)**

**4. Application of Custom House Coffee, LLC, 796 Aquidneck Avenue, for a Retailer's Class BV Alcoholic Beverage License, for the 2010-2011 licensing year. (NEW; Requires Advertising for Public Hearing and Notice to Abutters)**

## **CONSENT**

**5. Approval of Minutes, re: Regular Meeting, July 18, 2011.**

**6. Approval of Minutes, re: Special Meeting, August 3, 2011.**

**7. Petition received from Cristina A. Hartley for perpetual care of burial lots 40 and 41 in Section 49 of the Middletown Cemetery.**

**8. Notice of Public Hearing from Coastal Resources Management, Petition of Town of Middletown Assent for Stormwater discharge improvements: Redirect stormwater currently discharging at an outfall near Atlantic Beach to a new outfall 1,000 feet south and extending 500' into Easton Bay, and incorporate a diffused to improve mixing to reduce concentration of stormwater contaminants (namely bacteria) reaching the beach area. Also, construct a riprap revetment along coastal beach at outfall location. The project is prohibited per**

**RICRMP Sections 210.4.C.3 and 300.6.D (to alter coastal bluff, rocky shoreline and construct a new point source discharge to Type 1 waters) and requires a Special Exception per RICRMP Section 130. Located on Esplande, Middletown, RI.**

**9. Notice of Public Hearing from the Zoning Board of Review, Petition of Middletown Taco, Inc. (owner) – Lockwood/McKinnon Group (applicant) by their attorney Robert M. Silva, Esquire for a Special Use permit from Section 1211(B) (2), 1211 (D) (1) (a) and 1211 (D) (2) (a) to allow a monument sign within an area of 31 sq. ft. where 24 sq. ft. is allowed and a height of 7'-8" where 4' is allowed and to allow more than one wall-mounted sign, said real estate located at 641 West Main Road and further identified as Lot 15 on Tax Assessor's Plat 107SE.**

**10. Communication of Attorney Keith B. Kyle, Houlihan, Manahan & Kyle, Ltd, representing Robin Bosworth, re: Presentment of claim against the Town of Middletown.**

**11. (Continued from Regular Meeting, July 18, 2011)**

**Memorandum of Jan Eckhart, Planning Board Chairman, re: Request of the Town Council for Planning Board review and recommendation on proposed RIDOT improvement options for the West Main Road intersections with East Main Road and Coddington Highway. (Administration requests this item be continued to September 6, 2011 Regular Meeting of the Council)**

**12. (Continued from Regular Meeting, July 18, 2011)**

**Memorandum of Town Administrator, with enclosures, re: Contract Award: Prospect Avenue, Green End Avenue Culvert Replacement. (Administration requests this item be continued to September 6, 2011 Regular Meeting of the Council)**

**13. (Continued from Regular Meeting, July 18, 2011)**

**Resolution of the Council, re: Award of contract for Prospect Avenue, Green End Avenue Culvert Replacement. (Administration requests this item be continued to September 6, 2011 Regular Meeting of the Council)**

**LICENSES**

**14. Application of Apple New England, LLC dba Applebee's Neighborhood Grill and Bar, 349 West Main Road, for a Victualling House License for the 2010-2011 licensing year. (NEW)**

**15. Application of Apple New England, LLC dba Applebee's Neighborhood Grill and Bar, 329 West Main Road, for a Amusement License for the 2011-2012 licensing year. (NEW; Karaoke)**

**16. Application of S.H.I.J., Inc. dba New Sea Shai, 741 Aquidneck**

**Avenue, for a Victualling House License for the 2010-2011 licensing year. (NEW)**

**17. Application of Wendy's International dba Wendy's, 62 Valley Road, for a Victualling House License for the 2010-2011 licensing year. (NEW)**

**18. Application of Newport Dream Nutrition, LLC dba West Main Nutrition, 883 West Main Road, for a Victualling House License for the 2010-2011 licensing year. (NEW)**

## **PUBLIC HEARINGS**

**19. Email communication of Vincent Mesolella, Petitioner, Omni Village Zoning matter, re: Request to reschedule public hearing to the next Regular Meeting of the Council, Tuesday, September 6, 2011.**

**20. Public Hearing (Advertised; Abutters Notified)**

**An Ordinance of the Town of Middletown (First Reading)**

**An Ordinance in amendment to the Town Code of the Town of Middletown, Chapter 152, Zoning Code, reclassification of Lots 8, 9 and 10, TAP 111 from Light Industrial Traffic Sensitive (LIA) to General Business A (GBA) and Lot 9A on TAP 111 from Light Industrial (LI) to General Business (GB). (Planning Board recommendation attached)**

## **ORDINANCES**

**21. Memorandum of Acting Town Administrator, with enclosure, re: Best Management Practices for Control of Coyote Population.**

**22. Resolution of the Council, re: Supporting recommendations found in the amended Best Management Practices for Coexistence with Coyotes on Aquidneck and Conanicut Islands.**

**23. Memorandum of Acting Town Administrator, re: Ordinance for Feeding Non-Domesticated Animals.**

**24. An Ordinance of the Town of Middletown (First Reading)**

**An Ordinance in amendment to the Town Code of the Town of Middletown, Title IX, General Regulations, Chapter 90A Feeding Non-Domesticated Animals.**

**25. Memorandum of Acting Town Administrator, re: Ordinance Increasing Penalties for Violations Related to the Care and Control of Dogs.**

**26. An Ordinance of the Town of Middletown (First Reading)**

**An Ordinance in amendment to the Town Code of the Town of Middletown, Title IX, General Regulations, Chapter 90 Animals, Section 90.99(B) Penalty and Chapter 94 Streets, Sidewalks and Public Places, Section 94.99(B)(5) Penalty.**



**27. Memorandum of Acting Town Administrator, re: Amending Ordinances that Increase the Fee for Dog Licenses.**

**28. An Ordinance of the Town of Middletown (First Reading)**

**An Ordinance in amendment to the Town Code of the Town of Middletown, Title IX, General Regulations, Chapter 90 Animals, Section 90.23 Licensing.**

**29. An Ordinance of the Town of Middletown (First Reading)**

**An Ordinance in amendment to the Town Code of the Town of Middletown, Title III Administration, Chapter 36 Fee Schedule, Section 10 Dog Registration.**

## **COMMUNICATIONS TOWN COUNCIL**

**30. Communication of Councillor Cambra, re: Middletown Committee for the Arts update.**

**31. Communication of Councillor Cambra, re: School Supply Drive.**

## **COMMUNICATIONS OF TOWN ADMINISTRATOR**

**32. Memorandum of Town Administrator, with enclosure: PAYT Promotional Program.**

**33. Memorandum of Town Administrator, with enclosures, re:**

**Municipal Financial Report – Quarter/Fiscal year ending June 30, 2011.**

**34. Memorandum of Town Administrator, with enclosures, re: Contract Award: 2011 Revaluation Project.**

**35. Resolution of the Council, re: Award of Contract 2011 Revaluation Project.**

**COMMUNICATIONS OF BOARDS AND COMMITTEES**

**36. Appointment of one (1) member to the Middletown Personnel Review Board for a term expiring June 2014. (Bi-partisan Board)**

**37. Appointment of one (1) member to the Middletown Committee for the Arts to complete a term expiring April 2013.**

**38. Appointment of one (1) member to the Conservation Commission for a term expiring July 2014.**

**39. Appointment of two (2) members to the Library Board of Trustees for terms expiring September 2014.**

**40. Appointment of one (1) member to the Middletown Substance Abuse Prevention Task Force to complete a term expiring in April 2012 or to complete a term expiring March 2014.**

**41. Appointment of one (1) member to the Roads and Utilities Advisory Committee to complete a term expiring January 2014.**

**42. Email communication of Alan G. Kerr, re: Resignation from the Middletown Substance Abuse Prevention Task Force.**

**Wendy J.W. Marshall, CMC**

**Town Clerk**

**This meeting location is accessible to the handicapped. Individuals requiring interpreter services for the hearing impaired should notify the Town Clerk's Office not less than 48 hours before this meeting.**